IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF TEXAS

BEAUMONT DIVISION

TYRONE NUNN §

VS. § CIVIL ACTION NO. 1:12cv233

CARLOS RIVERA §

MEMORANDUM OPINION

Plaintiff Tyrone Nunn, an inmate confined at the Federal Correctional Institution in Beaumont, Texas, proceeding pro se, filed the above-styled lawsuit. As plaintiff not paid the required filing fee, he appears to be attempting to proceed with this matter on an in forma pauperis basis.

Analysis

On April 26, 1996, the president signed into law the Prison Litigation Reform Act. Pub.L. No. 104-134, 110 Stat. 1321 (1996). 28 U.S.C. § 1915(g), which was created by the Act, prohibits prisoners from repeatedly filing frivolous or malicious complaints. Section 1915(g) provides as follows:

In no event shall a prisoner bring a civil action or appeal a judgment in a civil action [in forma pauperis] ... if the prisoner has, on three or more occasions ... brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury.

Prior to the date on which plaintiff filed this complaint, courts had dismissed at least four lawsuits filed by plaintiff as

frivolous or or for failure to state a claim. As a result, Section 1915(q) is applicable.

The allegations made in the complaint do not demonstrate plaintiff was in "imminent danger of serious physical injury" at the time this lawsuit was filed. Section 1915(g) therefore bars plaintiff from proceeding with this action on an *in forma* pauperis basis. This case will, accordingly, be dismissed.

Conclusion

For the reasons set forth above, this lawsuit will be dismissed without prejudice pursuant to 28 U.S.C. § 1915(g). An appropriate final judgment shall be entered.

SIGNED this the **30** day of **May**, **2012**.

Thad Heartfield

United States District Judge

Nunn v. Bank of Wedowee, No. 3:03cv392 (M.D. Al. June 30, 2003) (dismissed as frivolous); Nunn v. Clay County Hospital, No. 7:05cv515 (N.D. Al. June 10, 2005) (dismissed for failure to state a claim); Nunn v. Bailey, No. 3:05cv1059 (M.D. Al. Nov. 30, 2005) (dismissed as frivolous); Nunn v. Martin, No. 1:11cv448 (E.D. Tex. Dec. 14, 2011) (dismissed as frivolous and for failure to state a claim).